

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Oregon State Office
7620 S.W. Mohawk Street
Tualatin, OR 97062-8121

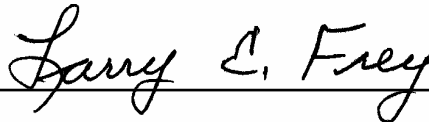
**Oregon Notice
FLP-160**

For: County Offices

Establishing System to Monitor Statute of Limitations

Approved By: State Executive Director

LEF:LEV:lv



1 Overview

A Background

It is necessary for field offices to continue to monitor delinquent farm credit accounts where the statute of limitations may bar collection. Reference Oregon Notice FLP-115, that expired on January 1, 2004 and Notice FLP-264 dated August 19, 2002.

The statute of limitations for collections is 10 years from the accrual date for offset, and six years from the accrual date for deficiency judgments and cross-servicing. The statute of limitations begins when any one of the following occurs:

- final maturity date of the loan
- date of acceleration
- date of missed installment payment and installment remains unpaid.

In most cases it is assumed that the date of acceleration sets the beginning of the 6 year SOL period. While this may be true in most cases, there are certain borrower case circumstances wherein the date(s) of the missed installments(s) (prior to the date of acceleration) start the SOL clock. A “missed payment SOL bar” limits collection on only those payments missed, while an “entire debt acceleration bar” might limit collection of the entire debt (except for agency collection against its loan collateral.) A final maturity date of a loan could trigger the SOL if that date occurs prior to the date of acceleration. The date of missed installment and final maturity date become critical on short term loans such as annual operating and short term chattel secured notes.

FILING: Preceding FmHA Instruction 1951-S and Operational File FLP 5

Disposal

January 1, 2005

04-28-04

Distribution

STO, DD, COR, COC, COF - Including Farm Loan Programs

Oregon Notice FLP-160

B Purpose

The purpose of this Oregon Notice is to:

- define what constitutes statute of limitations and provide guidance for COF's to continue monitoring and tracking SOL's in MAC (Management of Agriculture Credit System)
- require quarterly reports to the STO through the DD's.

C Contact

Please direct questions to Lynn Voigt, Farm Loan Chief, at (503) 692-3688, ext. 256.

2 Action

A County Office Action

The County Executive Director and Farm Loan Manager in each office shall review all delinquent borrower accounts on Report Code 540. A determination must be made on these delinquent accounts as to the start date of the statute of limitations using the guidelines above.

A workload scheduling item code has been established in MAC to post follow-up dates of 24 months prior to the end of the 6 year statute of limitations (i.e. 48 months after a SOL starting date has been triggered.) The MAC code number is 4600, and should be defined as "24 month follow up prior to SOL."

Quarterly report are required. Attached is a blank report that is to be completed and mailed to your District Director at the end of each quarter. Reports are due April 1, 2004, July 1, 2004, October 1, 2004 and January 1, 2005.

If borrowers resolve the delinquency or foreclosure action listed in your report, their name should be left on the report (draw a line through it) with a notation in the comments section of the report that the SOL issue has been resolved. At the end of each fiscal year, delete concluded cases from the list. If a borrower files bankruptcy while "a statue of limitations clock" is running, the six-year SOL time period would be "stayed" while the case is in bankruptcy. Do not delete these cases from the list, just document the comments section with the date of the bankruptcy filing. If the bankruptcy is dismissed, enter the date of dismissal and the SOL clock starts running again. Document the number of days the case existed in bankruptcy, as these days do not count against the Agency in the six year time frame.

B DD and Farm Loan Manager Action

District Directors will review the reports to ensure action is being taken on cases contained on the quarterly report and make comments on the report, as appropriate. District Directors will then forward the reports to the Farm Loan Chief in the STO. The SED shall be kept informed of the status of these cases.

STATUTE OF LIMITATIONS REPORT

[illegible]